

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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BRANDON L. PORTER,

Plaintiff,

v.

M. MIESNER, et al.

Defendants.

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ORDER

Case No. 17-cv-726-wmc

Plaintiff Brandon L. Porter, a prisoner in the custody of the Wisconsin Department of Corrections, has submitted a proposed civil action under 42 U.S.C. § 1983 and a motion to use release account funds to pay the entire fee for filing this case. However, with the exception of initial partial payments, federal courts lack the authority to tell state officials whether and to what extent a prisoner should be able to withdraw money from a release account. Accordingly, plaintiff's motion to use his release account to pay the entire filing fee in this case will be denied.

Plaintiff has also submitted a certified copy of a trust fund account statement. To the extent plaintiff wishes to proceed without prepaying the filing fee, after reviewing plaintiff's trust fund account statement, I find that plaintiff qualifies for indigent status.

Even when a prisoner litigant qualifies for indigent status, the litigant must pay a portion of the fee returned by the formula set forth in 28 U.S.C. § 1915(b)(1). Using information for the relevant time period from plaintiff's trust fund account statement, I calculate plaintiff's initial partial filing fee to be \$4.63. For this case to proceed, plaintiff must submit this amount on or before October 20, 2017.

If plaintiff does not have enough money to make the initial partial payment from plaintiff's regular account, plaintiff should arrange with authorities to pay the remainder from plaintiff's release account.

## ORDER

IT IS ORDERED that,

1. Plaintiff Brandon L. Porter is assessed \$4.63 as an initial partial payment of the \$350.00 fee for filing this case. Plaintiff is to submit a check or money order made payable to the clerk of court in the amount of \$4.63 or advise the court in writing why plaintiff is not able to submit the assessed amount on or before October 20, 2017.

2. Plaintiff Brandon L. Porter's motion for use of release account funds to pay the entire filing fee in this case (Dkt. #2) is DENIED.

3. If, by October 20, 2017, plaintiff fails to make the initial partial payment or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff filing this case at a later date.

4. No further action will be taken in this case until the clerk's office receives plaintiff's initial partial filing fee as directed above and the court has screened the complaint as required by the Prisoner Litigation Reform Act, 28 U.S.C. § 1915(e)(2). Once the screening process is complete, a separate order will issue.

Entered this 27th day of September 2017.

BY THE COURT:

/s/  
PETER OPPENEER  
Magistrate Judge